

Rodrico D. Malone (“Malone”) appeals from his sentence after pleading guilty to one count of robbery¹ as a Class B felony, and one count of carrying a handgun without a license as a Class C felony.² Malone presents the following restated issue for our review: whether his sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

FACTS AND PROCEDURAL HISTORY

On November 28, 2003, Malone entered the Save-On Liquor Store in Anderson, Indiana, and pointed a handgun at Carol Renson, a store clerk there. Malone took cash from Renson. Renson gave a description of Malone to police who quickly spotted him in the area. Malone, who was armed with a handgun, ran from police, but was captured. A gun and \$1,200.00 in cash were found near Malone.

The police took Malone to the liquor store where Renson identified Malone as the person who had robbed her. After being given his Miranda warnings, Malone confessed to having robbed the liquor store.

Malone pleaded guilty as charged. The plea agreement left sentencing open with a twelve-year cap on the executed portion of Malone’s sentence. The trial court sentenced Malone to twelve years executed for the Class B felony robbery conviction, with a concurrent

¹ See Ind. Code § 35-42-5-1.

² See Ind. Code § 35-47-2-1.

six-year executed sentence for his Class C felony conviction for carrying a handgun without a license. Malone now appeals.

DISCUSSION AND DECISION

Malone claims that his sentence is inappropriate in light of the nature of the offense and the character of the offender. This Court has the constitutional authority to revise a sentence if, after “due consideration” of the trial court’s decision, this Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B); *Childress v. State*, 848 N.E.2d 1073, 1076 (Ind. 2006). The burden is on the defendant to persuade the appellate court that his sentence is inappropriate. *Childress*, 848 N.E.2d at 1080.

When sentencing Malone, the trial court found Malone’s lengthy juvenile record and serious adult criminal history, and that Malone was on probation at the time of the offense, as aggravating circumstances. The trial court found Malone’s guilty plea and his empathy and remorse to be mitigating circumstances. The advisory sentence for a Class B felony is ten years. Ind. Code § 35-50-2-5. The advisory sentence for a Class C felony is four years. Ind. Code § 35-50-2-6. Malone received a twelve-year executed sentence for the Class B felony conviction and a concurrent six-year executed sentence for his Class C felony conviction.

Malone’s sentence is not inappropriate in light of the nature of the offense and the character of the offender. Malone has delinquency adjudications for theft, resisting arrest, battery, and disorderly conduct. Malone’s adult criminal history consists of two convictions for battery, four convictions for disorderly conduct, two convictions for resisting law

enforcement, and one conviction each for illegal consumption of alcohol, operating while never licensed, contributing to the delinquency of a minor, and Class B felony possession of cocaine. Malone has violated his probation twice, one of those times occurred when he committed the present offenses while on probation for possession of cocaine. Malone admitted to smoking marijuana prior to the present offenses and that he knew that he had an active warrant for child support. The slightly enhanced sentence for each offense, to be served concurrently, is not inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

BAKER, C.J., and NAJAM, J., concur.